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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,249	09/28/2001	Darren DeWall	60,518-010	6563

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HOWARD & HOWARD ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

EXAMINER

COBURN, CORBETT B

ART UNIT PAPER NUMBER

3714

DATE MAILED: 01/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

HGT

Office Action Summary

Application No.

09/967,249

Applicant(s)

DEWALL ET AL.

Examiner

Corbett B. Coburn

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 33-40 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 33 depends from claim 17, which ultimately depends from claim 12. Claims 33 & 12 contain the same limitation. Thus Claim 33 fails to further limit the subject matter of a previous claim.

Specification

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Gaming Device That Allows Players To Choose The Number Of Cells Played And Adjusts The Probability Of A Symbol Appearing Based On The Number Of Cells Chosen.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 recites the limitation "said secondary event trigger" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

5. Claims 14-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 14 recites the limitation "said event programmer" in line 1. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 23 contains the limitation: "wherein said selecting comprises a predetermined number of cells." There is no verb. Examiner assumes that it should read, "wherein said selecting comprises choosing a predetermined number of cells."

7. Claims 33-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 33 claims, "A method as set forth in claim 17..." Claim 17 is drawn to "an assembly". Obviously, there has been a typographical error. The overall structure of the body of claims suggests that Claims 33-40 should depend from claim 32. For purposes of examination, Examiner will treat these claims as if they depend from claim 32.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claims 1-11, 20-32 & 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Payne et al. (US Patent Number 6,241,607) in view of Giobbi et al. (US Patent Number 6,155,925).

Claims 1, 20, 41, 43: Payne teaches a gaming machine with means for accepting a wager (54) from a player. There is a display for displaying one of a plurality of symbols (Col 1, 31) in each of a plurality of cells (Fig 2). Payne teaches a random generator for randomly selecting a symbol to be displayed in each of said cells independently of the random selection of a symbol in each of the other cells (Col 2, 24-28). Fig 2a discloses the functions of a game control for controlling game play in a primary game mode and for controlling images displayed on the display (58), detecting the presence of a predetermined winning combination of symbols (60), and for awarding a prize in response to a winning combination (64), and a selector for allowing a player to select the number of cells to be evaluated (50) by the game control to detect the presence of a winning combination within the selected number of cells.

Payne teaches special payout opportunities, but it is not clear whether these are a secondary event mode – i.e., a bonus game. Bonus games are notoriously well known in the art. They are used to add excitement to the game and attract players. Giobbi teaches such a bonus game. (Abstract) It would have been obvious to one of ordinary skill in the art at the time of the invention to have a secondary event mode (bonus game) in order to add excitement to the game and attract players.

Claims 2, 23, 24: Payne teaches that plurality of cells includes three rows and three columns of cells. (Fig 3) Payne discloses that the player selects from a number of

different paylines. (Abstract) Each payline has a predetermined number of cells. (Fig 3)
Thus the selector includes a sensor to allow the player to select a predetermined number of cells.

Claims 3, 21: Giobbi teaches that the game control is arranged to trigger a secondary event mode in response to a secondary event trigger condition. (Abstract)

Claims 4, 25: Payne teaches that the player may choose paylines that consist of any number of available cells from 1 to the total number of cells displayed. Thus the predetermined number of cells in a 9-element array would include one, three, five, seven or nine cells for selection by the selector.

Claims 5, 26: Payne clearly depicts a video display arranged to a simulation of a reel for each cell with each reel capable of presenting a plurality of said symbols. (Fig 2)

Claims 6, 27, 42: Giobbi teaches adjusting the probabilities of occurrence of a particular symbol based on the amount wagered. (Figs 6a-e) Since the number of cells selected is equivalent to the amount wagered, Giobbi teaches changing the probabilistic distribution of symbols available for random selection and presentation in each of the cells in response to the number of cells selected by the player.

Claims 7, 28: Payne's Fig 2a shows a pay-table defining winning combinations of symbols for each number of cells selectable by the player.

Claims 8, 29: Payne teaches that the random generator includes a lucky symbol generator for selecting one said symbol as a lucky symbol for providing an increased prize in response to a winning combination including said lucky symbol. (Col 5, 21-24)
The "wild card" is a lucky symbol.

Claims 9, 30: Payne's Fig 2 shows a number of paylines. These paylines are predetermined number indicators for indicating on the display the number of cells selected by the player.

Claims 10, 31: Giobbi's Fig 5 shows a bet indicator for indicating the amount of a wager.

Claims 11, 32: Giobbi teaches that in response to said secondary event trigger, the game control is arranged to randomly select one of a plurality of positions (i.e., boats) and sending an object (i.e., fish) to one of said positions. (Col 5, 65 – Col 6, 15)

Claim 22: Giobbi teaches that the said secondary event trigger is the display of at least a predetermined number of a predetermined one of said symbols within said selected number of cells. (Col 1, 52-54)

10. Claims 12-19 & 33-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Payne and Giobbi as applied to claim 11 or 32 above, and further in view of Moody et al. (US Patent Number 5,976,016).

Claims 12, 33: Giobbi fails to teach that the positions comprise representations of planets and the object comprises a space ship. Instead, Giobbi adopts a fishing theme. Moody describes a space theme with representations of planets and spaceships. (Col 3, 44-58) Moody also makes it clear that any suitable symbols may be used. Game designers use graphics to create themes for gaming machines in order to add to player enjoyment. It would, however, have been obvious to one of ordinary skill in the art at the time of the invention to have the positions comprise representations of planets and the

object comprises a space ship in order to illustrate a space theme in order to add to player enjoyment.

Claims 13, 34: Giobbi teaches an item selector (66) for allowing the player to select a predetermined number of items – the player may select one boat.

Claims 14, 35, 38: Giobbi teaches an evaluation station (i.e., the boat) and a transfer device for moving the items (i.e., fish) through space to the evaluation station. The fisherman reels in a fish that is evaluated to determine the award. (Col 5, 65 – Col 6, 15) Reeling in the fish is animation.

Claims 15, 16, 19, 36, 37, 40: These claims are all drawn to graphical representations intended to illustrate the chosen space theme. While not specifically taught by the prior art, these elements serve a purely ornamental function. Game designers use graphics to create themes for gaming machines in order to add to player enjoyment. It would, however, have been obvious to one of ordinary skill in the art at the time of the invention to have an evaluation station (in the form of a pawn shop) and includes a transfer device for moving the items through space to said evaluation station wherein said positions comprise representations of planets and said object comprises a spaceship and wherein said transfer device comprises the loading of said items onto said spaceship and said spaceship delivering said items to said pawnshop in order to illustrate a space theme in order to add to player enjoyment.

Claim 17: Giobbi teaches an award designator for awarding credits to the items at the evaluation station. (Col 5, 65 – Col 6, 15) The fish are different sizes and the size determines the amount of the award.

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Claims 18, 39: Giobbi Fig 5 show a credit indicator for indicating the total number of credits awarded. In the illustrated case, 450 credits were won.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reference Name	US Patent Number	Applicability
Baerlocher et al.	6,413,162	3X3 array of independent reels
Jaffe et al.	6,443,837	Scatter pay
Inoue	5,722,891	Independent reels, star symbols

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



cbc

January 14, 2003



JESSICA HARRISON
PRIMARY EXAMINER